



Bundeszwang durch Einsetzung eines Sparkommissars (German Edition)

Siegfried Schwab

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Wissenschaftlicher Aufsatz aus dem Jahr 2009 im Fachbereich Jura - Öffentliches Recht / Staatsrecht / Grundrechte, Note: 1,0, Duale Hochschule Baden-Württemberg Mannheim, früher: Berufsakademie Mannheim, Sprache: Deutsch, Abstract: Für die Anwendung von Bundeszwang ist das Vorliegen einer Bundespflichtverletzung zentrale Voraussetzung. Eine solche Pflichtverletzung kann einerseits in einem Verstoß gegen Haushaltsgrundsatzgesetze liegen.

Es ist angesichts der durch Art. 109 Grundgesetz (GG) gewährleisteten Haushaltsautonomie zweifelhaft, ob allein in einer extrem verschwenderischen Haushaltspolitik eine Verletzung von Bundespflichten i.S.d. Art. 37 Abs. 1 GG gesehen werden kann.

Es ist den Ländern aus dem Bundesstaatsprinzip heraus verwehrt, die anderen Glieder des Bundesstaats durch gegenläufige Handlungen an der Wahrnehmung ihrer Aufgaben zu hindern.

Die finanzielle Selbstständigkeit ist nicht absolut, sondern im Rahmen eines von der Verfassung zwischen den Gliedern des Bundesstaats vorgegebenen Pflichtenverhältnisses zu verstehen.

Liegen die tatbestandlichen Voraussetzungen des Bundeszwangs vor, so hat die Bundesregierung über die Anordnung des Bundeszwangs und die Auswahl der notwendigen Maßnahmen, die zur Beendigung der Pflichtverletzung erforderlich sind, zu entscheiden.

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